ECCLESIA LAW

Private Ecclesiastical Counsel
United States & International

THE LIFECYCLE OF CREDIT &

ABANDONED CREDIT UNDER THE CLIFFORD PROTOCOL

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SUBJECT: Legal Lifecycle of Negotiable Instruments and the Fiduciary Protocol for Credit Recoupment under the Clifford Protocol

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I. The Genesis: *Ex Nihilo* Credit Creation

Modern banking operates on the principle that banks do not lend their own capital; instead, they create credit **"*ex nihilo*"** (out of nothing) by monetizing the signatures and energy of living men and women.

- **The Originator & Agent Capacity:** When a living being signs a loan agreement, mortgage, or promissory note, they act as the true source of national credit. In this act, the **living man** acts as the authorized agent for the **body corporate birth-certificate-created entity** (the debtor estate), which is the legal person recognized by the financial system.
- **The Negotiable Instrument:** Under the **Bills of Exchange Act 1882**, this signed document is a **negotiable instrument**.
- **Monetization by Clearing Banks:** The clearing bank takes this private negotiable instrument and executes the *ex nihilo* process, transforming a private promise to pay into a liquid asset on its own balance sheet.

II. Securitization and the Investment Bank Transfer

Once the clearing bank has monetized the instrument, it moves the asset into the broader secondary market for trading.

- **Sale to Investment Banks:** Clearing banks frequently sell these securitizations—the promise to pay captured in the negotiable instrument—to **Investment Banks**.

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- **Trading and CUSIP Assignment:** The Investment Bank is where these assets are bundled and traded. It is at this stage that **CUSIP numbers** are assigned to the securitized instruments, allowing them to be tracked and traded as standardized securities within the global financial system.
- **Nominee Architecture & HJR-192:** Following **HJR-192 (1933)**, which abolished gold settlement, all obligations became dischargeable only in fiat credit. The bank (or investment bank) acts as a **nominee**, holding these securitized instruments in **omnibus accounts**.

III. Identifying the Withholding Agent: Who Maintains the Form 945?

A critical component of the **Phase 0 Forensic Audit** is identifying which entity is responsible for the tax remittance.

- **The Withholding Agent:** The **Investment Bank** (or the Trust/Custodian holding the securitized pool) typically acts as the "Payer" for tax purposes.
- **Form 945 Responsibility:** Because the Investment Bank manages the trading and distribution of the OID income, it is the entity required by law to maintain the **Form 945** (Annual Return of Withheld Federal Income Tax).
- **The Clearing Bank's Role:** The original clearing bank often exits the transaction once the instrument is sold to the Investment Bank, meaning the **Form 945 deposits** we verify during recoupment are usually found on the Investment Bank's EIN module.

IV. The Nature of OID and the Maturity Window

Original Issue Discount (OID) is generated as these securitized instruments, held at a discount, accrue toward their face value.

- **Box 4 (Federal Income Tax Withheld):** On **Form 1099-OID**, **Box 4** represents the federal income tax withheld by the payer (the Investment Bank) on that discounted original issue.
- **Maturity Timing:** These negotiable instruments typically follow a **30-year maturity cycle** (common for residential mortgages) or a **short-term cycle** (1–5 years for auto or personal loans).
- **Recoupment of Abandoned Assets:** If no fiduciary filing occurs, the backup withholding remains "abandoned property" in the Treasury for the duration of the instrument's life. The bank retains the commercial benefit, while the creator remains in a "debtor" status.

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V. The Fiduciary Remedy: Holder in Due Course (HdC)

The law provides a remedy for nominee misreporting through the establishment of a fiduciary relationship.

- **The 98-Series Trust:** Under the Clifford Protocol a **98-Series International Grantor Trust** with its own EIN to separate the recoupment from the SSN-based "debtor estate".
- **Standing:** The Trust asserts status as the **Holder in Due Course (HdC)** of the original negotiable instrument, acting as the true beneficial owner of the credit.
- **Fiduciary Mandate:** Under **IRC § 6012**, the fiduciary is legally responsible for the "proper reporting" of the entity's credits. This includes correcting nominee misreporting via corrected 1099-OIDs listing the **Trust EIN as the recipient**, per **IRS Publication 1212**.

VI. Step-by-Step Recoupment Process (Standard Fiduciary Protocol)

To ensure the lawful reclamation of credits, the fiduciary adheres to a standardized recoupment protocol, the “Clifford Protocol” designed for algorithmic clearance:

1. **Entity Establishment:** Create a fiduciary structure (e.g., a 98-series Grantor Trust) to separate the claim from individual SSN-based fraud filters.
2. **Fiduciary Authorization:** Post fiduciary authority via **Form 56** and establish representation via **Form 2848** to gain practitioner-level access.
3. **Pre-Filing Verification:** Conduct a forensic audit of the Payer’s tax transcripts to ensure the **Form 945 withholding module** is fully funded.
4. **The (≥) Rule:** Confirm that the Payer’s verified tax deposits are **greater than or equal to (≥)** the intended withholding claim to avoid **TC-810 refund freezes**.
5. **Nominee Correction:** File a **Nominee 1099-OID** to correct the bank's misreporting, tethering the credits to the fiduciary entity's record.
6. **Fiduciary Return:** Submit **Form 1041** for each applicable tax year, ensuring the data aligns with IRS master records.
7. **Direct Delivery Rails:** Utilize **Electronic Rails** (ACH or Fedwire via Form 8302) for secure, high-speed delivery.

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VII. Conclusion: Why The Clifford Protocol is Lawful

The process is a fulfillment of fiduciary duty and adheres to standardized financial and tax protocols.

- **Bills of Exchange Act 1882**.
- **HJR 192.**
- **Statutory Compliance:** It follows the specific rules for OID reporting and nominee correction established in **Publication 1212** and **IRC § 1272–1288**.
- **Dataset Reconciliation:** The IRS system relies on dataset matching. By ensuring the **money (945 deposits)** and **paperwork (1041/1099)** align, the recoupment moves through the pipeline without subjective judgment.
- **Fiduciary Authority:** Using a 98-series trust mirrors the statutory framework used by major financial institutions. The fiduciary has a legal right and duty to reclaim credits that were originated by the grantor and improperly held by the bank as a nominee.

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